

REMARKS

The present amendment is submitted in conjunction with a Request for Continued Examination (RCE) and in response to the final Office Action dated September 18, 2009, which set a three-month period for response, making this amendment due by December 18, 2009.

Claims 1-13 are pending in this application.

In the final Office Action, claims 10-13 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 1, 3-7, and 9-13 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,146,452 to Pekarske in view of U.S. Patent No. 4,701,630 to Annunziata et al. Claim 2 was rejected under 35 U.S.C. 103(a) as being unpatentable over Pekarske in view of Annunziata and further in view of U.S. Patent No. 7,330,661 to Jackson et al. Claim 8 was rejected under 35 U.S.C. 103(a) as being unpatentable over Pekarske in view of Annunziata and further in view of U.S. Patent No. 7,013,328 to Monse et al.

In the present amendment, claim 10 has been amended to adopt specific method steps in order to address the rejection under Section 112, second paragraph.

Claims 1 and 10 were further amended to define over the art of record by adding the following features: the first & second control and/or drive networks

11, 12 each have one master control unit (see page 7 of present application) connected to the network nodes, as disclosed on page 2 of the present application; the master control units are connected to a data bus, such that external commands for configuring the networks are delivered (page 5 of present application); and the switchover units are implemented via master/slave control units, so that the switch position of the switchover units is alterable via configuration commands (page 5 of the present application).

Neither of the cited references to Pekarske, which relates to telephone networks, and Annunziata, which relates to Local Area Network, deals with a communication system comprising a control and/or drive network, which implicitly also comprises controls/drives. Controls/Drives are not disclosed in the state of the art.

The Applicants respectfully submit that it has not been shown or established in the final Office Action where such a network is disclosed (see page 3 of the Final Action). Furthermore, the data mentioned in the state of the art is not applicable for operating industrial machines, and there are no control/regulation signals exchanged between the network nodes.

It is respectfully submitted that since the prior art does not suggest the desirability of the claimed invention, such art cannot establish a prima facie case of obviousness as clearly set forth in MPEP section 2143.01. The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. *In re Fritch*, 23 USPQ 2d 1780, 1783-84 (Fed. Cir. 1992).

Finally it is noted that when this entry into the National Phase was filed applicant caused to be filed a literal translation of the foreign language application. However, it has now been ascertain that in fact the translation that was submitted is incomplete. This is because the German language text was originally printed double sided. However, council for the applicant only received every other page of the German language application because when a copy was made it was not designated as double sided but only single sided.

Since each page ended in a complete paragraph, the translator did not notice this discrepancy.

However, this discrepancy has now been ascertained and applicant submits herewith a complete translation including the previously missing every other page. This translation is accompanied by an explanatory declaration of the translator.

It is requested that this complete translation be made of record in the subject application.

Withdrawal of the final rejection is respectfully requested.

The application in its amended state is therefore believed to be in condition for allowance. Action to this end is courteously solicited. However,

should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael L. Striker', is written over the printed name.

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